THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.18736 of 1999

Dated:12.12.2007

Between:

Sadineni Sailu, S/o.Rajaiah.

…Petitioner

and

The Revenue Divisional Officer,
Warangal,
Subedari, Hanamkonda, Warangal,
and another.

…Respondents

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ORDER:

The petitioner is statedly owner of land admeasuring Ac.0.37 guntas comprised in Survey No.1112/5-A and Ac.0.20 guntas in Survey No.1113/4-A situated at Madikonda Revenue Village of Warangal District. He alleges that his land was acquired and an award was passed. He sought a reference in the civil Court. The civil Court passed award dated 29.12.1980 in O.P.No.15 of 1976. He alleges that he was under the impression that reference was made in respect of both the survey numbers, but the civil Court's award was only in respect of the land in Survey No.1112/5-A, and no award was passed for the land in Survey No.1113/4-A. He then approached the first respondent in July 1999 requesting reference for the other land, in vain. He also got issued a legal notice dated 07.08.1999, and then filed the present Writ Petition. He seeks a mandamus directing the first respondent to refer the award passed in 1971 to civil Court.

The Revenue Divisional Officer and the Land Acquisition Officer, first respondent herein, filed counter affidavit. According to this counter affidavit, the case of the respondents is as follows. The notification under Section 4(1) of the Land Acquisition Act, 1894 (the Act, for brevity), was issued and published in the A.P.Gazette No.26-a (Supplementary to pt-I), dated 02.09.1971, in proceedings

No.A2/1510/71, dated 15.03.1974, and the first respondent passed award in the presence of the petitioner. An extent of Ac.0.37 guntas in Survey No.1112/5-A and an extent of Ac.0.20 guntas in Survey No.1113/4-A was acquired, and the petitioner received compensation without any protest as seen in the register 'CC'. However, on a request made by the petitioner under Section 18 of the Act, the matter was referred to civil Court, being O.P.No.15 of 1976. An award was also passed. The petitioner participated in the enquiry in the civil Court, but never raised any objection, and filed the present Writ Petition after a lapse of about 26 years. Therefore, the Writ Petition is not maintainable, and it is barred by delay and laches.

Though the counter affidavit is filed on 23.01.2001, and a copy thereof was served on the learned Counsel for the petitioner on 18.01.2001, no reply affidavit is filed. This shows that the counter averments stand unrebutted. When the petitioner requested, the matter was referred to civil Court. He participated in the enquiry. He also got the benefit of the award/judgment passed by the Court of the Subordinate Judge, Warangal, in O.P.No.15 of 1976, dated 29.12.1980. The petitioner appears to have never objected for the reference. Therefore, this writ petition filed after lapse of about 25 years after the passing of the award cannot be entertained. Secondly, though a specific allegation is made in the counter affidavit that the award was passed in the presence of the petitioner, and he received the compensation without demur, no denial is coming forth from the petitioner. Therefore, at this point of time, this Court is not inclined to grant any mandamus directing the first respondent to make reference under Section 18 of the Act.

The Writ Petition is devoid of any merits, and the same is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

12.12.2007
vs